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NCR CORPORATION

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

GLEN R. HAGEN, Plaintiff, vs. NCR CORPORATION, and DOES 1 through 100, Defendant.	Case No. 07 CV-2205 DMS (CAB) **AFFIDAVIT OF M.D. SCULLY IN SUPPORT OF OPPOSITION TO PLAINTIFF'S EX PARTE APPLICATION TO CONTINUE EXPERT DESIGNATION AND RELATED DATES** **[FRCP 26(a)(2)(C)]**

I, M.D. Scully have personal knowledge of the following facts and if called upon could competently testify:

1. I understood the expert designation deadline was June 17, 2008. Prior to that date, I had communications with Plaintiff's counsel, Thomas Gill, on the issue of depositions and the presence of Plaintiff's neuropsychologist, Lisa Davidson M.D., at Plaintiff's deposition. At no time during any of these communications did Mr. Gill indicate he would be retaining an expert witness, nor did Mr. Gill indicate he was having any difficulty retaining an expert witness.

2. The first time I became aware that Plaintiff intended to designate an expert witness was June 20, after the designation deadline had passed. Plaintiff has identified four treating physicians in discovery to date, three of whom have neurology backgrounds. Defendant will be extremely prejudiced in expending

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both time and money to examine an additional neurology "expert" who can add little more in analysis and explanation than that of Plaintiff's treating neurology doctors.

3. Furthermore, I took the deposition of Dr. Davidson on June 10 with the understanding that there would not be expert witnesses in this case.

4. Permitting Plaintiff to insert an additional fifth doctor into this case at this late date would be prejudicial to Defendant by increasing the cost and time to effectively litigate the case and would only serve to either confuse issues that other treating physicians could competently testify to or cumulatively add testimony that would be unnecessary.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed this 11th day of July, 2008, at San Diego, California.

M.D. Scully

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UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF CALIFORNIA	COURT USE ONLY
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SHORT CASE TITLE GLEN R. HAGEN v. NCR CORPORATION	JUDGE: DEPT:
ATTORNEYS FOR DEFENDANT NCR CORPORATION	Court Case 07-CV-2205 DMS (CAB)

PROOF OF SERVICE

I, the undersigned, say: I am over 18 years of age, employed in the County of San Diego, California, in which the within-mentioned service occurred; and that I am not a party to the subject cause. My business address is 101 West Broadway, Suite 2000, San Diego, California 92101.

I hereby certify that on July 11, 2008, a copy of the foregoing documents listed below were filed electronically.

1. **OPPOSITION TO PLAINTIFF'S EX PARTE APPLICATION TO CONTINUE EXPERT DESIGNATION AND RELATED DATES**
2. **AFFIDAVIT OF M.D. SCULLY IN SUPPORT OF OPPOSITION TO PLAINTIFF'S EX PARTE APPLICATION TO CONTINUE EXPERT DESIGNATION AND RELATED DATES**

Notice of this filing will be sent by operation of the Court's electronic filing system (ECF) to the following parties which are indicated on the electronic filing receipt.

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Attorneys for Plaintiff GLEN R. HAGEN

I declare that I am employed in the office of a member of the bar of this court whose direction the service was made.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on July 11, 2008.

Sharon Daubert

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